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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN - 8 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment to the Commission's
Regulatory Policies Governing
Domestic Fixed Satellites and
Separate International Satellite
Systems

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IB Docket No. 95-41

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COMMENTS OF SATELLITE CD RADIO, INC.

Satellite CD Radio, Inc. (CD Radio), by its attorneys, hereby comments on the Commission's *Notice of Proposed Rulemaking (Notice)* in the above-captioned docket.¹ In this proceeding, the FCC is seeking comment on its proposal to eliminate the distinction between its Transborder Policy and its Separate International Satellite Systems ("Separate Systems") Policy, and to treat all U.S.-licensed geostationary fixed-satellites under a single regulatory scheme. As discussed below, CD Radio applauds the Commission's proposed regulatory simplification, and requests that it be extended to include Direct Broadcast Satellite services ("DBS"), including Satellite Digital Audio Radio Service ("Satellite Radio").

Since 1990, CD Radio has been attempting to bring digital quality audio directly to listeners via satellite through Satellite Digital Audio Radio Service. On January 18, 1995, the Commission allocated spectrum in the 2310-2360 MHz band for Satellite

¹ FCC 95-146 (April 25, 1995).

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Radio,² and is now poised to promulgate service regulations for this new service. The FCC shortly will issue a Notice of Proposed Rulemaking addressing licensing and service rules. Because CD Radio's proposed service is by nature one which spans national borders, CD Radio has a vital interest in this proceeding.

CD Radio compliments the Commission for its foresight in proposing to subject all U.S.-licensed fixed-satellites to the same regulatory policy for the provision of both domestic and international services.³ The proposed consolidated regulatory process will benefit licensees by both easing their regulatory burden and allowing them to offer their clients a greater variety of services at lower prices. In addition, this consolidation will benefit the Commission by simplifying the regulatory regime which it must administer. Thus, the Commission's proposal would seem to fall squarely within its self-imposed and logical mandate to reduce the regulatory burden on the communications industry and allow competition to flourish.

In particular, CD Radio supports the Commission's proposal to allow licensees of geostationary systems that provide direct-to-user services to provide both domestic and international services on a co-primary basis, subject to international coordination obligations.⁴ In proposing to consolidate its regulatory policies for foreign and domestic satellite services, the Commission suggests a number of policies which will be

² *Amendment of the Commission's Rules with Regard to the Establishment and Regulation of New Digital Audio Radio Services*, FCC 95-17 (Jan. 18, 1995) (*Report and Order*).

³ *Notice*, ¶ 41.

⁴ *Id.*, ¶ 38.

advanced. These policies include increasing the number of customer service options, lowering prices, facilitating the creation of a global information infrastructure, and encouraging the design of more flexible satellite systems.⁵ These same benefits would flow were the new policy adapted to *all* U.S. satellites, including those in the forthcoming Satellite Radio service. The Commission has already suggested that the rulemaking might encompass DBS satellites,⁶ a suggestion with which CD Radio concurs.

Finally, the Commission should include Satellite Radio within the definition of direct-to-user satellite services for the purposes of its proposed regulatory streamlining. Within the context of this particular rulemaking, Satellite Radio is indistinguishable from DBS. That is, both services provide information and entertainment programming directly to their customers. Such customers might be located in either the United States or in an adjacent country, especially the border areas of Mexico and Canada. Indeed, if anything, the case for extending the policy to Satellite Radio is more compelling: most Satellite Radio customers will be receiving transmissions in a mobile environment (*e.g.*, in automobiles, trucks, or boats). Such users may wish to traverse national boundaries while receiving the signals from U.S. satellites. Authorization to serve such users, subject to any necessary international coordination, could be an important market for U.S. companies and would increase competition, expand consumer choice, foster

⁵ *Id.*, ¶¶ 21-22.

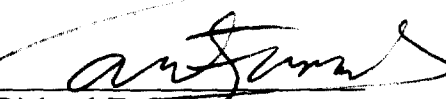
⁶ *Id.*, ¶ 38.

the development of an international information infrastructure, and encourage the development of newer, more flexibly designed satellites.

In sum, CD Radio strongly supports the Commission's proposed regulatory consolidation and compliments the Commission for proposing such a forward-thinking policy. However, in order to assure that a maximum number of satellite services reap the benefits of this policy, CD Radio suggests that it be applied to all satellite direct-to-user services, including Satellite Digital Audio Radio Service. By allowing all satellite services to take advantage of this policy, the FCC can further its goals of enhanced competition, increased programming selection, and a more robust and flexible communications infrastructure.

Respectfully submitted,

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